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ABSTRACT

This report, submitted by Senator Inouye to the Select Committee on Indian Affairs, summarizes the background and major provisions of Senate Bill 1530, to authorize the Secretary of the Interior, in collaboration with the Secretaries of Education, Health and Human Services, and Labor, to approve tribal plans for the integration, at the tribal level, of employment, training, and related services now funded through a variety of statutes. Grants reserved exclusively for Indian programs are currently available to tribal governments for job training services under the Job Training and Partnership Act; for adult and youth vocational education programs under the Carl Perkins Act; and for education, skills training, and work experience services for recipients of Aid to Families with Dependent Children under the Job Opportunities and Basic Skills program of the Family Support Act. Senate Bill 1530 would allow tribal governments to consolidate paperwork associated with these various grants, coordinate closely related programs without objections from federal monitors, and pursue tribally determined goals consistent with the policy of self-determination. This report also discusses the use of training funds for job creation and economic development, the need for more timely information on Indian unemployment by state and tribe, and estimated annual costs of the act to the federal government. It is recomended that the bill be cited as the "Indian Employment, Training, and Related Services Demonstration Act of 1991." (SV)

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102D CONGRESS
1st Session

SENATE

REPORT
102-188

AUTHORIZING THE INTEGRATION OF EMPLOYMENT, TRAINING AND RELATED SERVICES PROVIDED BY INDIAN TRIBES

OCTOBER 15 (legislative day, SEPTEMBER 19), 1991.—Ordered to be printed

Mr. INOUYE, from the Select Committee on Indian Affairs, submitted the following

REPORT

[To accompany S. 1530]

The Select Committee on Indian Affairs, to which was referred the bill (S. 1530), to authorize the integration of employment, training and related services provided by Indian tribes having considered the same, reports favorably thereon with an amendment in the nature of a substitute and an amendment to the title and recommends that the bill as amended do pass.

The amendment is an amendment in the nature of a substitute as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Indian Employment, Training and Related Services Demonstration Act of 1991".

SEC. 2. STATEMENT OF PURPOSE.

The purposes of this Act are to demonstrate how Indian tribal governments can integrate the employment, training and related services they provide in order to improve the effectiveness of those services, reduce joblessness in Indian communities and serve tribally-determined goals consistent with the policy of self-determination.

SEC. 3. DEFINITIONS.

For the purposes of this Act, the following definitions apply:

(1) INDIAN TRIBE.—The terms "Indian tribe" or "tribe" shall have the same meaning as in section 4(e) of the Indian Self-Determination and Education Assistance Act.

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(2) INDIAN.—The term "Indian" shall have the same meaning as in section 4(d) of the Indian Self-Determination and Education Assistance Act.

(3) SECRETARY.—Except where otherwise provided, the term "Secretary" means the Secretary of the Interior.

SEC. 4. INTEGRATION OF SERVICES AUTHORIZED.

The Secretary of the Interior, in cooperation with the appropriate Secretary of Labor, Secretary of Health and Human Services, of the Secretary of Education, shall, upon the receipt of a plan acceptable to the Secretary of the Interior submitted by an Indian tribal government, authorize the tribal government to consolidate, in accordance with such plan, its federally funded employment, training and related services programs in a manner that integrates the program services involved into a single, coordinated, comprehensive program and reduces administrative costs by consolidating administrative functions.

SEC. 5. PROGRAMS AFFECTED.

The programs that may be integrated in a demonstration project under any such plan referred to in section 4 shall include, but are not limited to, programs authorized under the Job Training Partnership Act, the job opportunities and basic skills program under the Family Support Act of 1988, vocational education programs under the Carl D. Perkins Vocational Educational Act, and programs administered by the Secretary generally referred to as the "tribal work experience program" and the "employment assistance program".

SEC. 6. PLAN REQUIREMENTS.

For a plan to be acceptable pursuant to section 4, it shall—

(1) identify the programs to be integrated;

(2) be consistent with the purposes of this Act authorizing the services to be integrated in a demonstration project;

(3) describe a comprehensive strategy which identifies the full range of potential employment opportunities on and near the tribal government's service area, and the education, training and related services to be provided to assist Indian workers to access those employment opportunities;

(4) describe the way in which services are to be integrated and delivered and the results expected from the plan;

(5) identify the projected expenditures under the plan in a single budget;

(6) identify the agency or agencies of the tribal government to be involved in the delivery of the services integrated under the plan;

(7) identify any statutory provisions, regulations, policies. or procedures that the tribal government believes need be waived in order to implement its plan; and

(8) be approved by the governing body of the affected tribe.

SEC. 7. PLAN REVIEW.

Upon receipt of the plan from a tribal government, the Secretary of the Interior shall consult with the Secretary of each Federal department providing funds to be used to implement the plan, and with the tribal government submitting the plan. The parties so consulting shall identify any waivers of statutory requirements or of Federal departmental regulations, policies, or procedures necessary to enable the tribal government to implement its plan. Notwithstanding any other provision law, the Secretary of the affected department shall have the authority to waive any regulation, policy, or procedure promulgated by that department that has been so identified by such tribal government or department, unless the Secretary of the affected department determines that such a waiver is inconsistent with the purposes of this Act. Notwithstanding any other provision of law, the affected Secretary shall also have the authority to waive any statutory provisions so identified. Further, in carrying out their responsibilities under this section, the Secretary of the Interior, Secretary of Labor, Secretary of Health and Human Services, and Secretary of Education shall interpret Federal laws in a manner that will facilitate the accomplishment of the purposes of this Act.

SEC. 8. PLAN APPROVAL.

Within 90 days of the receipt of a tribal government's plan by the Secretary, the Secretary shall inform the tribal government, in writing, of the Secretary's approval or disapproval of the plan. If the plan is disapproved, the tribal government shall be informed, in writing, of the reasons for the disapproval and shall be given an opportunity to amend its plan or to petition the Secretary to reconsider such disapproval.

SEC. 9. JOB CREATION ACTIVITIES AUTHORIZED.

The plan submitted by a tribal government may involve the expenditure of funds for the creation of employment opportunities and for the development of the economic resources of the tribal government or of individual Indian people if such expenditures are consistent with an overall tribal economic development strategy which has a reasonable likelihood of success.

SEC. 10. PRIVATE SECTOR TRAINING PLACEMENTS.

Notwithstanding any other provision of law, a tribal government participating in a demonstration program under this Act is authorized to utilize funds available under such plan to place participants in training positions with private employers and pay such participants a training allowance or wage for a period not to exceed 12 months, if the tribal government obtains a written agreement from the private employer to provide on-the-job training to such participants and to guarantee permanent employment to the participants upon satisfactory completion of the training period.

SEC. 11. FEDERAL RESPONSIBILITIES.

Within 180 days following the date of enactment of this Act, the Secretary of the Interior, the Secretary of Labor, the Secretary of Health and Human Services and the Secretary of Education shall enter into an interdepartmental memorandum of agreement providing for the implementation of the demonstration projects authorized under this Act. The lead agency for a demonstration program under this Act shall be the Office of Tribal Services in the Bureau of Indian Affairs, Department of the Interior. The responsibilities of the lead agency shall include—

(1) the use of a single report format related to the plan for the individual project which shall be used by a tribal government to report on the activities undertaken under the project;

(2) the use of a single report format related to the projected expenditures for the individual project which shall be used by a tribal government to report on all project expenditures;

(3) the development of a single system of Federal oversight for the project, which shall be implemented by the lead agency; and

(4) the provision of technical assistance to a tribal government appropriate to the project, except that a tribal government shall have the authority to accept or reject the plan for providing such technical assistance and the technical assistance provider.

SEC. 12. NO REDUCTION IN AMOUNTS.

In no case shall the amount of Federal funds available to a tribal government involved in any demonstration project be reduced as a result of the enactment of this Act.

SEC. 13. INTERAGENCY FUND TRANSFERS AUTHORIZED.

The Secretary of the Interior, Secretary of Labor, Secretary of Health and Human Services, or the Secretary of Education, as appropriate, is authorized to take such action as may be necessary to provide for an interagency transfer of funds otherwise available to a tribal government in order to further the purposes of this Act.

SEC. 14. FISCAL ACCOUNTABILITY.

Nothing in this Act shall be construed so as to interfere with the ability of the Secretary or the lead agency to fulfill the responsibilities for the safeguarding of Federal funds pursuant to the Single Audit Act of 1984.

SEC. 15. FUNDS AUTHORIZED FOR TRAINING RELATED TO INDIAN ROAD CONSTRUCTION.

In expending moneys allocated for Indian road construction programs, the Secretary of the Interior shall expend an amount equal to one quarter of one percent of the amount so allocated to train Indians for employment on road construction projects. Such training may include literacy programs and other educational programs determined by a tribal government to be necessary.

SEC. 16. REPORT ON STATUTORY OBSTACLES TO PROGRAM INTEGRATION.

Within one year of the date of enactment of this Act, the Secretary shall submit a report to the Select Committee on Indian Affairs of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives on the implementation of the demonstration program authorized in this Act. Such report shall identify statutory barriers to the ability of tribal governments to more effectively integrate their employment, training, and related services in a manner consistent with the purposes of this Act.

SEC. 17. LABOR MARKET INFORMATION ON THE INDIAN WORK FORCE.

(a) REPORT.—The Secretary, in consultation with the Secretary of Labor, shall, in a consistent and reliable manner, develop, maintain and publish, not less than biennially, a report on the population, by gender, eligible for the services which the Secretary provides to Indian people. The report shall include, but is not limited to, information at the national level by State, Bureau of Indian Affairs Service area, tribal level for the—

(1) total service population;

(2) the service population under age 16 and over 64;

(3) the population available for work, including those not considered to be actively seeking work;

(4) the employed population, including those employed with annual earnings below the poverty line; and

(5) the numbers employed in private sector positions and in the public sector positions.

(b) INDIAN DEMOGRAPHIC INFORMATION.—The Secretary, in consultation with the Bureau of the Census of the Department of Commerce, and the National Cent4er for Native American Studies and Policy Development authorized by Public Law 101-301, shall prepare a report on the need for comprehensive, accurate and periodically updated information on the size and characteristics of the American Indian and Alaska Native population throughout the entire United States. This report shall include the need for information, together with the cost of acquiring such information, on the characteristics and need for education, health, housing, job training, and other basic needs of such population, and shall take into consideration the need for this information by Indian tribes and organizations serving Indians in nonreservation areas. The report shall be submitted to the Select Committee on Indian Affairs of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives not later than 12 months after the date of enactment of this Act.

SEC. 18. ASSIGNMENT OF FEDERAL PERSONNEL TO STATE INDIAN ECONOMIC DEVELOPMENT PROGRAMS.

Any State with an economic development program targeted to Indian tribes shall be eligible to receive, at no cost to the State, such Federal personnel assignments as the Secretary, in accordance with the applicable provisions of the Intergovernmental Personnel Act of 1970, may deem appropriate to help ensure the success of such program.

Amend the title so as to read: "An Act to authorize the integration of employment, training, and related services provided by Indian tribal governments.".

PURPOSE

The Indian Employment, Training and Related Services Demonstration Act of 1991 authorizes the Secretary of the Interior, in collaboration with the Secretaries of Education, Health and Human Services and Labor to review and approve tribal plans for the integration, at the tribal level, of a variety of employment and training and related services now funded separately through a variety of authorization statutes. This approach is designed to enable tribal governments to improve the effectiveness of these services, reduce joblessness in Indian communities and serve tribally-determined goals consistent with the policy of self-determination. This approach is also intended to substantially reduce the paperwork burden on tribal governments currently associated with compliance with many separate grant requirements and agency policies.

BACKGROUND

Over the course of the last two decades, the Congress has authorized a variety of employment and training services for unemployed and economically disadvantaged workers in the general population. Job training services are available under the Job Training and Partnership Act. Vocational education programs under the Carl

Perkins Act help prepare youth and adults for more productive careers. Education, skill training and work experience services are extended to recipients of Aid to families with Dependent Children under the Job Opportunities and Basic Skills program of the Family Support Act.

In authorizing all of these programs, funds are reserved exclusively for an Indian program. Consistent with the principle of a government-to-government relationship, financial assistance is provided by the federal agency involved directly to tribal governments and equivalent Native Alaskan organizations.

Each individual employment and training grant to a tribal government or Native Alaskan entity carries an abundance of requirements. Although the statutory provisions directly associated with the particular Indian program involved are usually quite brief, programmatic and administrative requirements multiply in the agency's program regulations. Agency policy issuances, grant application requirements, reporting forms and monitoring procedures all compound the complexity of operating each program at the tribal level.

Even though the target population and services available under the various programs are substantially similar—in some cases, identical—the tribe must still deal with all the agency requirements separately, program-by-program. Paperwork or procedures created under one program rarely satisfy another agency's requirements for a different program, no matter how closely the services are related.

Many of the grants provided to tribal governments are relatively small. Roughly 40 percent of the grants to tribes under the special Indian program in JPTA are for amounts $100,000 or less. In the JOBS program, nearly 75 percent of the tribal allocations are for $100,000 or less.

The Committee has heard testimony that at least one tribe has been threatened with the disallowance of funds it expended in trying to coordinate two closely related programs because a federal monitor did not like the way the tribe handled the allocation of travel costs. The tribe's response was simple and straightforward. It separated the two programs it had been trying to link together. By separating the programs within the tribal structure, there was less chance that federal monitors could challenge the way costs are allocated.

The result is frustrating not only to tribal members in need of services and to tribal program staff and officials, but to the Committee as well. The stated purpose of all these programs is to serve a single end: to increase the economic self-sufficiency of Indian people and Indian communities. The modest amounts of funding provided cannot have the impact intended by the Congress if tribal program managers must spend much of each day insuring that the tribe will not fall afoul of some federal agency requirement.

The flexibility provided in the laws authorizing each of the tribal employment and training programs is intended to foster innovation and creativity, so that each tribal government can address the needs of its service population in the manner it deems most appropriate.

The bill is intended to return the programs to their basic purpose—enhancing economic self-sufficiency—by establishing a mechanism which will make it possible for tribal governments to integrate all of their employment, training and related services, regardless of funding source, in single, comprehensive program.

SUMMARY OF MAJOR PROVISIONS

Initiation of program

The bill entrusts the Secretary of the Interior with the primary responsibility for leading this initiative at the federal level. Although other agencies have extensive experience in funding tribal employment and training services, the Secretary of the Interior has the major obligation within the federal system to insure that programs for the Indian population are administered in a manner that is consistent with federal self-determination policy and in a way that furthers self-governance and self-sufficiency.

Under the Secretary's leadership, the Cabinet departments which now fund significant employment and training programs operated at the tribal level are to enter into an interdepartmental memorandum of agreement which will provide the framework for the implementation of this program.

The Departments to be involved include those responsible for Indian programs under the Job Training Partnership Act (JTPA), the Jobs Opportunities and Basic Skills (JOBS) program under the Family Support Act and the vocational education programs under the Carl Perkins Act. Other Departments may be included or may subsequently become signatories to the memorandum of agreement as appropriate.

The interdepartmental memorandum of agreement is to be completed and signed within 180 days of the date of enactment of this legislation. Indian tribal governments and organizations are to be informed of the process of the Secretaries in the development of the agreement and invited, in a timely way, to submit views on the issues involved. The Committee expects the Secretaries to give serious consideration to such views, as it is the tribal governments who have the primary role in making this initiative a success.

The interdepartmental memorandum of agreement might be expected to cover such matters as:

1. Methods to advise tribal governments, including all those now funded under the separate employment and training programs, of the opportunity to participate in the program consolidation demonstration.
2. Procedures for the review and approval of tribal plans.
3. The form of the federal-tribal agreement to be used in the program. It is anticipated that this will be a grant agreement incorporating established block grant concepts.
4. An expedited process within each Department for the consideration of the waivers sought in conjunction with tribal plans.
5. Methods to insure the timely release of funds to tribal governments participating in the program. Authority for such interagency fund transfers as may be required is provided in the bill.

The Committee has incorporated the customary definition of an Indian tribe in the bill, encompassing individual tribal govern-

ments, Native Alaskan organizations and consortia of such entities, all of which commonly serve as service provider agencies for existing employment and training programs.

Although this program is viewed as a demonstration in the sense that it represents the testing of an innovative approach to integrating currently fragmented service, the Committee expects that the opportunity to participate will be widely extended to tribal governments of all sizes and in all parts of the country.

At the same time, participation in the program is to be entirely voluntary on the part of each tribal governments, intertribal consortia or Native Alaskan group. The program consolidation involved is to be tribally-initiated, not imposed by the federal government.

Review and approval of tribal plans

The individual tribal plans for conducting comprehensive employment and training programs are the key to the operation of this program. In designing its plan each tribal government has an opportunity to shape the resources available to it to meet the specific needs of its service population.

The proper role of all the federal agencies involved in working tribal governments on their plans is to be responsive to each tribe's view of what is appropriate in the circumstances. While Federal agency employees dealing with tribal plans may have their own ideas about what is best for the tribe or the appropriate mix of services, the Committee would expect that the choice of strategies and services will be a tribal choice.

Tribal plans may cover multi-year periods. The effort required to develop a truly comprehensive and integrated program, as well as the time frame involved in undertaking a major economic self-sufficiency initiative support the need for two or three-year plans.

Because the federal appropriations cycle is an annual one, multi-year tribal plans may incorporate annual descriptions of the specific services to be provided and the anticipated results expected, consistent with the longer term objectives and approaches laid out in the multi-year plan.

As the separate employment and training programs are already on different funding obligation cycles, it is expected that tribal governments will have a choice of time frame around which to structure their plans.

Each federal agency providing employment and training funds to be consolidated under a tribal government's plan is to participate, under the leadership of the Secretary of the Interior, in the review of that plan. The bill reserves to the Secretary the responsibility for approving the plan.

In judging whether a plan should be approved, the Committee would expect all reviewers to focus on two issues:

1. Does the plan address the purposes of the program? In integrating the tribal government's employment and training services, does the plan speak to the effectiveness of the services to be provided, the reduction of joblessness and the way in which the plan will serve tribally determined goals?

2. Secondly, does the plan describe a comprehensive strategy which examines needs within the tribal government service area

and the opportunities available to further economic self-sufficiency?

The review is to be approached in the same way the agencies involved handle the review of state plans under the various block grant programs. The standard for plan approval is whether the plan meets the requirements explicitly stated in the law.

The Committee wants to make it clear that the plan is to be a tribally-developed document, not a stapling together of all the requirements now imposed as part of the grant application or planning process of the various separate programs, such as JTPA or JOBS.

Waiver authority

As part of the plan submission and review process, the bill provides that the tribal government and federal reviews identify any rules, regulations, policies, procedures or underlying statutory provisions which need to be waived in order to enable the tribal governments to successfully implement its plan.

The Committee sees the use of this waiver authority, provided in Section 7 of the bill, as central to the success of this initiative.

A major source of the current fragmentation of employment and training services at the tribal level is the proliferation of agency rules, policies, interpretations of policies and even opinions of individual agency project officers. A major purpose of the bill is to cut through this maze. The waiver authority is the tool provided to do this job.

In approaching the use of its waiver authority, each agency involved is to carefully examine those statutory requirements that are central to the basic purpose of the Indian employment and training program the agency administers. An example would be the requirement that funding under the tribal JOBS program provide services which benefit AFDC recipients.

All other features of the program should be considered as appropriate targets for the use of the waiver authority in the bill if such a waiver would contribute to the success of a tribal plan.

The bill does not envision the creation of a new set of regulations to be imposed in addition to all those which already exist in the separate programs. Rather, it takes the more difficult, but ultimately more meaningful approach of reducing the existing burden of requirements.

In order to more closely oversee the extent to which statutory provisions are obstacles to the integration of services at the tribal level, Section 16 of the bill provides for a one-time report to the Committee of the Congress with jurisdiction over Indian affairs on this matter.

Program and fiscal accountability

The bill provides two fundamental, tribally-based accountability systems. One is the tribal plan the other is the existing audit process under the Single Audit Act.

The standard of performance to be used with the program in the bill, and the standard to be applied to all the funds involved, is the performance of the tribe against the tribal government's own plan.

As with existing Indian employment and training programs, it is expected that tribal government's will submit budgets which group related costs in meaningful categories, such as training or work experience, rather than on a line item basis. It is also intended that tribal government's have the flexibility equivalent to that provided under the current programs to shift modest amounts of funds from cost category to cost category without requiring advance federal approval.

Section 14 of the bill makes clear that the program is subject to the requirements of the Single Audit Act and that nothing in the bill is intended to interfere with the exercise of federal responsibilities under the Act.

Lead agency role

To insure consistency in the federal oversight of the program, the bill assigns the responsibility for program monitoring to the Office of Tribal Services within the Bureau of Indian Affairs. This choice was intended to place this important role in an agency with a direct mandate to advance self-governance, as well as one with a mission to support the strengthening of tribal governments capacity to deliver human resource services.

The assignment of a single agency also provides the Committee and any other interested party with a single source of information on the process of the program.

The list of lead agency responsibilities in the bill specifically provides for the use of a single report format for program and financial purposes. The formats are to insure that the reports address each individual tribal government's plan. Individual agencies contributing funds to the tribal government's program are to use the information in this report, rather than requiring separate reports on their own funds, a course of action which would be contrary to the purpose of consolidating the program.

Among the duties of the lead agency is the provision of technical assistance to tribes on the design and implementation of programs which integrate their employment and training services. Individual tribes are given the authority to reject both the plan for how assistance is to be provided and the provider. The Committee notes that the best source of expertise on planning and operating tribal programs is staff with extensive experience at the tribal level.

Other provisions

Economic development activities

Job creation in the private sector is absolutely essential to the success of job training programs in Indian Country. With unemployment and underemployment at staggering levels in many Indian communities, the expansion of employment opportunities for Indian people is an indispensable ingredient in any job-related strategy or program.

The witnesses who testified before the Committee on S.1530 were emphatic about the need for job creation directly tied to job training. Cheyenne River Sioux Tribal Chairman, Mr. Gregg Bourland, was the first of a number of witnesses to underscore this point. The example of the entrepreneurial development program conducted

with Indian JTPA funding serving the Interior region of Alaska was also encouraging.

Section 9 of the bill explicitly authorizes the use of funds under the program for job creation as an integral part of a comprehensive employment and training strategy. Tribal governments are given the authority to tailor those resources to their individual needs and opportunities, subject only to the requirement that the use of funds be consistent with an overall tribal economic development strategy which has a reasonable likelihood of success.

Although the Committee's intent is to provide job opportunities directly for those who are eligible for employment and training, it is recognized that imposing such a literal test on the use of funds would be counterproductive. Having to trace the expenditure of every program-eligible person is simply unrealistic. Most tribes would hesitate to spend any funds on economic development as they felt they could face future cost disallowances in the event a venture failed and employed no program participants.

As an example of the type of economic development activity that could be supported by the resources consolidated by a tribal plan, a tribal government could use the funds to explore markets for the products or services of a new venture that expected to employ Indian workers from within the tribe's reservation. A tribal government could also use funds to train Indian people as managers for an expanding venture.

Although the bill does not establish a fixed limit on the use of funds for economic development activities, the Committee expects that such activities will generally not consume more than 25 percent of the employment and training resources consolidated under the tribal government's plan.

This aspect of S. 1530, like many others, is motivated by the Committee's concern for advancing economic self-sufficiency. The long-standing practice in many programs, such as BIA's tribal work experience program, of restricting subsidized employment to public or non-profit agencies perpetuates the imbalance between public and private sector employment present in many Indian communities.

Road construction

Section 15 of the bill is intended to authorize the use of Indian road construction funds for training purposes comparable to the way in which such funds are authorized on federal-aid highway projects. Pursuant to the 1991 federal highway act reauthorization legislation, tribal governments are authorized to use up to one-quarter of one percent of their federal aid dollars for job training purposes.

Labor market

There is a compelling need for more accurate and timely information on the economic and social situation of Indian people throughout the United States.

This need is directly related to the purposes of this bill. Accurate and timely information on Indian joblessness, nationally, state-by-state and tribe-by-tribe, is as necessary to the formulation of sound

employment policy at the federal level as it is to the design of effective employment programs at the tribal level.

Presently there are two national sources of data on the characteristics of the Indian labor force. One is the Indian Service population and Labor Force Estimates series published, normally biennially, by the Bureau of Indian Affairs. This series contains estimates of a very limited number of characteristics, such as age, number employed and number available for work but without jobs, of Indian people living within BIA service areas. The figures are only estimates; they are not based on an actual household-by-household count.

The other source is the decennial Census of Population and Housing. The data is obtained by household enumeration procedures, although it is difficult to insure that all households in remote areas are counted and in most cases the Census Bureau has under counted the population in Indian country. It covers Indian people in all parts of the United States. The Census data also provides significant amounts of detail on the social and economic characteristics of the Indian population.

The Committee has incorporated provisions in the bill at Section 17 which address the need for more relevant data in two ways. First, the bill insures that the BIA data will continue to be published. This series appears to have a low priority within the Bureau. The Committee notes that the report that normally would have been expected last January has yet to be published.

The bill would also add to the information now presented a requirement for information on the Indian service population by gender and on employment in the private sector separately from employment in the public sector. The poverty level, an annually updated figure, is to be used to distinguish very low paying positions from others.

The approach to measuring joblessness on the basis of those available for work, but not employed, would be retained. In the absence of even these minimal improvements, the BIA report will remain inadequate to provide the information needed for either planning or policy making purposes. Therefore, the bill further provides for a study of what it would take to develop a more accurate, comprehensive and periodically-updated series on the economic and social situation of Indian people throughout the United States. In keeping with the assignment of responsibilities throughout the bill, the Secretary of the Interior is charged with the responsibility for making this study.

The Secretary is to consult with the Bureau of the Census. A number of key Bureau staff have valuable experience in the collection, analysis and presentation of data on the Indian population. Their expertise is vital to the success of this study.

The Secretary is also to consult with the National Center for Native American Studies and Policy Development at George Washington University, more commonly referred to as the National Indian Policy Center. The Center's responsibility is to insure that expert assistance is available for the study from knowledgeable sources among tribal governments, Indian organizations in off-reservation areas, academic institutions and those with special familiarity with Indian labor force issues. The Center's involvement is

also intended to insure that the study gives priority to the need for relevant data in the Indian community which is at least equal to the weight given to the need for data within the federal establishment.

LEGISLATIVE HISTORY

S. 1530 was introduced on July 23, 1991 by Senator Simon for himself, and Mr. Inouye, Mr. Akaka, Mr. Murkowski, Mr. Burdick, Mr. Conrad, Mr. Daschle, Mr. DeConcini, Mr. Domenici and Mr. Reid and was referred to the Select Committee on Indian Affairs. A hearing on S. 1530 was held on July 25, 1991. The bill was considered by the Select Committee in an open business session on July 18, 1991, and was ordered reported as amended.

COMMITTEE RECOMMENDATION AND TABULATION OF VOTE

In open business session on August 2, 1991, the Select Committee on Indian Affairs, by a unanimous vote of a quorum present, ordered the bill, as amended, reported with the recommendation that the Senate adopt the bill.

SECTION-BY-SECTION ANALYSIS

Section 1

Section 1 cites the short title of the Act as the "Indian Employment, Training and Related Services Demonstration Act of 1991".

Section 2

Section 2 sets out the purpose of the Act.

Section 3

Section 3 sets out the definitions used in the Act.

Section 4

Section 4 authorizes a tribal government to consolidate its federally funded employment, training and programs once its plan has been approved by the Secretaries of Interior, Education, Labor, and Health and Human Services.

Section 5

Section 5 outlines the federal employment and training programs involved in the demonstration project. The Job Training Partnership Act, the job opportunities and basic skills program under the Family Support Act of 1988, vocational education programs under Carl D. Perkins Vocal Educational Act, the tribal work experience program and the employment assistance program administered by the BIA.

Section 6

Section 6 provides that a tribal government will submit a comprehensive proposal describing what employment training programs it wants to integrate under this Act. In its proposal a tribal government will identify anticipated expenditures, statutory provisions, regulations, policies or procedures it believes would have to be waived in order to implement its plan.

Section 7

Section 7 provides that as the plan is received by the Secretary of the Interior, the Secretary would meet with the other Secretaries providing funds and with the tribal government to identify and waive any statutory requirements, department regulations, policies or procedures that would bar the tribal government from implementing its plan.

Section 8

Section 8 authorizes the Secretary of the Interior to accept or reject the tribal government's proposal in writing within 90 days of its submission. If the plan is disapproved, the Secretary would explain in writing to the tribal government why the plan was disapproved and would allow the tribal government to resubmit the plan.

Section 9

Section 9 authorizes for the expenditure of funds by the tribal government in accordance with its plan for employment and economic development.

Section 10

Section 10 authorizes the tribal government to place individuals in private job training positions with a private employer. Under this section each participant will be paid an allowance or wage for a period not to exceed 12 months. The private employer would have to guarantee a permanent position to the tribal member once he or she had completed the job training program.

Section 11

Section 11 directs the Secretary of the Interior, the Secretary of Health and Human Services and the Secretary of Education to enter into an interdepartmental memorandum of agreement outlining the procedures the tribal governments will follow governing Federal reporting requirements.

The Office of Self-Governance in the Office of the Assistant Secretary for Indian Affairs will be the lead agency unless a tribal government requests that another office or Department be designated as the lead agency.

Section 12

Section 12 provides that tribal governments participating in this demonstration project will not exercise reduction in Federal training and employment funds that are otherwise currently available to them, because of their participation in this program.

Section 13

Section 13 authorizes the Secretary of the Interior, Secretary of Labor, Secretary of Health and Human Services, or the Secretary of Education to make the necessary interagency transfers to tribal governments under this Act.

Section 14

Section 14 places fiscal accountability with the Secretary or lead agency to see that Federal funds are protected under the Single Audit Act of 1984.

Section 15

Section 15 authorizes that funds made available under the Indian roads program, that one quarter of one percent, be made available for Indian employment and training on road construction projects.

Section 16

Section 16 directs the Secretary of the Interior to report to the Select Committee on Indian Affairs of the Senate and the Committee on Indian Affairs of the House of Representatives to identify statutory barriers that present obstacles to the integration of employment and training programs.

Section 17

Section 17 provides that the Secretary of the Interior in consultation with the Secretary of Labor shall publish biennially a report on joblessness on reservations. The report will examine the Indian population by total service population; the service population under age 16 and over 64; the population available for work, including those not considered to be actively seeking work; the employed population, including those employed with annual earnings below the poverty line; and the number of people employed in private sector positions and in public sector positions.

Section (b) provides for the gathering of Indian demographic information, under Public Law 101-103. The Bureau of the Census of the Department of Commerce, and the National Center of Native American Studies will report to the Select Committee on Indian Affairs and the Committee on Interior and Insular Affairs of the House of Representatives on conditions in Indian country. This report should include information on Indian education, health, housing and job training.

Section 18 allows states that have an economic development program designed to address the employment needs of Indian reservations to receive at no cost to the state/federal personnel in accordance with the Intergovernmental Personnel Act of 1970.

COST AND BUDGETARY CONSIDERATIONS

The cost estimate for S. 1530, as evaluated by the Congressional Budget Office, is set forth below:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, September 10, 1991.

Hon. DANIEL K. INOUYE,
Chairman, Select Committee on Indian Affairs,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has reviewed S. 1530, the Indian Employment, Training and Related

Services Demonstration Act of 1991, as ordered reported by the Select Committee on Indian Affairs on August 2, 1991. Based on information from several departments that would be involved in the demonstration project, CBO estimates that S. 1530 would result in annual costs to the federal government of less than $1 million. Enactment of S. 1530 would not affect direct spending or receipts. Therefore, pay-as-you go procedures would not apply to the bill.

S. 1530 would authorize a demonstration program that would enable American Indian and Native Alaskan tribes to consolidate various employment, training, education, and related programs currently administered and funded through a number of federal agencies. The bill would require tribes to submit plans for the integration of services to the Department of the Interior (DOI). After receipt of a plan, DOI would be required to coordinate with the departments in which the various job and training programs are located, and with the affected Indian tribes, to implement the demonstration program. The bill would give each Secretary the authority to waive statutory requirements, federal regulations, policies, or procedures promulgated by the department in order to enable the tribal governments to integrate the programs. In addition, S. 1530 would authorize use of funds for various job creation and training activities under the demonstration program. The lead agency for administering the demonstration program would be the Office of Tribal Services within the Bureau of Indian Affairs. In addition to coordinating the integration of programs, the office would be charged with a number of tasks, including providing technical assistance to the tribes in the program.

It is likely that S. 1530 would result in a slight increase in federal administrative costs initially, as the agencies set up the program and carry out the initial administrative and reporting activities. Since the bill directs the Secretary of the Interior to authorize program consolidation for any tribe that submits a qualified program plan, costs would vary depending upon a variety of currently unspecified factors. For example, the number of tribes participating, the number of agencies involved, and the amount of technical assistance provided to the tribes under the program would all affect costs. The annual administrative cost could range from as little as $100,000 to $2 million. If the demonstration program were limited to a few tribes and remained uncomplicated, administrative costs would probably be relatively small. If the program involved a greater number of tribes or more complicated tribal or program organizations, however, annual costs would be higher because the agencies would have to expend more resources to deal with the program. In either case, these costs should diminish as the program matures and the tribes and agencies develop a streamlined administrative process under the integration program.

In addition, S. 1530 would require DOI, in conjunction with other affected departments, to submit several reports in connection with the program. Two reports would be submitted within a year of enactment resulting in costs of less than $500,000 in fiscal year 1992.

The third report would require DOI, in consultation with the Department of Labor, to provide data biennially on the population eligible for the services that the DOI provides to Indians. The DOI currently collects and maintains data similar to that required in

the bill for the population served by the Bureau of Indian Affairs. The cost of this report would vary with the degree to which the department revises its current data collection efforts to comply with the provisions of the bill. If the department does not change its methods significantly, there would be no additional cost to the federal government. However, if DOI expands its efforts, the cost could rise significantly. For example, if DOI required a Department of Labor special population survey biennially, costs could range from $2 million to $5 million for each survey. Because this level of effort would probably not be undertaken, CBO estimates that the report would result in additional costs of less than $500,000 annually.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Patricia Conroy, who can be reached at 226-2860.

Sincerely,

ROBERT D. REISCHAUER,
Director.

REGULATORY IMPACT STATEMENT

Paragraph 11(b) of rule XXVI of the Standing Rules of the Senate requires each report accompanying a bill to evaluate the regulatory and paperwork impact that would be incurred in carrying out the bill. The Committee believes that S. 1530 will have minimal regulatory or paperwork impact.

EXECUTIVE COMMUNICATIONS

The Committee received the following testimony from the U.S. Department of the Interior on S. 1530.

DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, DC, September 27, 1991.

Hon. DANIEL K. INOUYE,
Chairman, Select Committee on Indian Affairs,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: This responds to your request for our views on S. 1530, a bill "To authorize the integration of employment, training and related services provided by Indian tribes". On August 2, the Select Committee on Indian Affairs held a markup on S. 1530. We are presenting our views on the bill as ordered reported by the Committee.

We would support S. 1530 if it is amended to meet our concerns in sections 9, 10, 15, and 16.

Section 9 authorizes tribal governments to expend funds pursuant to a submitted plan for the creation of employment opportunities and for the development of economic resources of the tribe or of individual Indians if such expenditures are consistent with an overall tribal development strategy that has a reasonable likelihood of success.

We believe the expenditure of consolidated funds pursuant to tribal plans should not be tied to an economic development strategy. The opportunity to invest in people in terms of training and

education can, in many instances, be more beneficial than over-reliance on development of projects. It is noted, however, that there should be a strong correlation between training and private sector opportunities in a regional context rather than being limited to tribal economic opportunities.

We suggest that section 9 be amended by deleting the words "tribal economic development strategy", and inserting in lieu thereof, "regional economic activity".

Section 10 authorizes tribes participating in the demonstration program to use available plan funds to place participants in training positions with private sector employers. The participants would be paid a training allowance or wage for a period not to exceed 12 months. To participate, the tribe must first obtain a written agreement from the employer to provide on-the-job training and to guarantee permanent employment to participants upon satisfactory completion of training.

We do not object to Section 10. However, we would suggest that language be included to provide that, upon completion of training, the private sector employer be required (subject to terms negotiated between the tribe and the employer) to provide permanent employment for at least 12 months. Without such language, the employer could receive free labor during the on-the-job training period and then release the trainee after a short period of permanent employment. Neither the tribe nor the trainee would benefit from such a training program.

Section 15 requires that the Secretary of the Interior, in expending moneys allocated for Indian road construction programs, shall expend an amount equal to one quarter of one percent of the amount so allocated to train Indians for employment on road construction projects. We object to the inclusion of this section in this bill as the issue is appropriately being addressed within the Surface Transportation bill currently pending before Congress.

Section 16 provides that, within one year of the date of enactment of this legislation, the Secretary shall submit a report to the Senate Select Committee on Indian Affairs and the House Committee on Interior and Insular Affairs on the implementation of the demonstration program. The report is to identify the statutory barriers that prevent tribal governments from effectively integrating their employment, training, and related services consistent with this legislation.

We believe a report to Congress five years after enactment, with interim reports as appropriate, would be more realistic in view of the complex interagency coordination and research involved in implementing these programs.

Further, we recommend that the Senate amend the bill to authorize the Secretary of the Interior to withhold a pre-determined amount from each grant awarded for the explicit purpose of performing a comprehensive, rigorous evaluation of the demonstration project, conducted by a qualified independent third-party.

In summary, we view S. 1530 to be consistent with our efforts to expand Indian self-determination, develop reservation infrastructure, and provide an access to markets while targeting training to industry. However, we believe that amendments to address our

concerns are necessary and should be adopted prior to passage by the Senate.

We have determined that, since S. 1530 provides for the integration of existing programs with no new authorization, it is not affected by the Pay-As-You-Go (PAYGO) provisions of the Budget Enforcement Act.

The Office of Management and Budget has advised that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

EDDIE F. BROWN,
Assistant Secretary.

CHANGES IN EXISTING LAW

In compliance with subsection 12 of rule XXVI of the Standing Rules of the Senate, the Committee notes that S. 1530 requires no changes to existing law.

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